FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

CRIMINAL APPLICATION NO. 801 OF 2015

SANJAY VYANKATRAO KOKATE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Barde Parag Vijay.
APP for Respondent: Mr. R. P. Phatke.
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CORAM: T. V. NALAWADE, J.
DATED: 25th FEBRUARY, 2015.

PER COURT:

1. This application is filed for anticipatory bail. Both the sides are heard. This Court has perused the papers of investigation.

2. The crime is registered on the basis of report given by one Shriniwas Birajdar, resident of Narangawadi, Tahsil Omerga. His two sons are educated and he was in search of employment for his two sons. Present Applicant is from Omerga. He is retired Army man, and at present he is working as Talathi at Narangawadi. Accused No.2 is also a retired Army man and he is

Sarpach of village Handral.

3. The complainant was acquainted with both accused Nos.1 and 2. On 4th March, 2013, first time they represented to the complainant that there were posts of Railway Police which were to be filled and the complainant can seek employment for his two sons as railway police. They represented to the complainant that he will be required to spend Rs.6 Lakh for each son. Due to this representation, the complainant said that he will give a thought over it. Then, on 5th March, 2013 these two persons again approached complainant and said that he would definitely seek employment for his sons but he will be required to give Rs.6 Lakh for each son. The applicant and his associates then told the procedure and they made the complainant to give the record for getting appointment. Due to the representations made and due to the posts which these two accused were holding in past, the complainant trusted them. The applicant and his associate then asked one son of the complainant to proceed to Calcutta. As per the directions given by the applicant and his associate the amount of Rs.1 Lakh was deposited for seeking appointment, in one account of co-accused. A

farce of medical examination of one son of the complainant was created. Then, representation was made that it was possible to give employment to the other son also. The record in respect of other son was also collected. The applicant represented that it was not necessary to hand over the entire amount immediately and the amount can be given in installments.

4. Applicant then met the complainant and asked to send his second son to Mumbai for medical examination as the farce of medical examination was to be created. Three more associates of these two accused met them at Mumbai. A farce was created of medical examination at Gorakhpur, U.P.

5. After the aforesaid farce, the complainant was made to deposit more amount, like Rs.2 Lakh in the account of accused No.4. This was done due to the representation made by the present applicant and his associate, Sarpanch. On 2nd May, 2013 applicant and his associate again approached the complainant and asked him to deposit Rs.2 Lakh more as the matter was in process. On 7th May, 2013 the complainant deposited Rs.49,000/- in the account of Accused No.6 due to aforesaid representation and he deposited more amount

of Rs.1.5 Lakh in the account of Accused No.6, which was in different bank. The account numbers are given in the report.

6. After extracting the aforesaid amount, applicant and his associates started representing that the sons of complainant need to undergo the training. Complainant was made to realise that the work of giving appointment was not completed and he continued to act as per the instructions given by the applicant. Then, on 14th August, 2013, another false representation was made that post of T.C. was available in Railway and for that it was necessary to send the first son to Delhi. Complainant sent his son to Delhi.

7. Present Applicant and accused No.2 then represented that the remaining amount of Rs.5 Lakh needs to be immediately paid as it was required to be given to accused Nos.3 to 5 who were residents of Kolhapur. As complainant was hoping to get the appointment for his sons, he some how made arrangement, sold his house for collecting the money. He handed over amount of Rs.4 Lakh directly in the hand of present applicant on 19th August, 2013. He deposited the amount of Rs.99,000/- in the account of accused

No.4 on 23rd August, 2013. As per the instructions given by present applicant first son of the complainant went to Delhi and there false appointment order, for the post of T.C. in Railways was given. The said son was then asked to remain present with all the record at Shilda Division.

8. When the first son went to Shilda Division with order and other record, it was told to him that the order was bogus and the concerned from there refused to allow him to join the duty. Then, the applicant and his associates started giving evasive answers. Ultimately, the complainant gave report and the crime came to be registered for offence punishable under sections 420, 467, 468, 471, 34 etc. of I.P.C.

9. The learned counsel for the Applicant made a submission that afterwards some settlement took place between the applicant and the complainant and the applicant returned the amount of Rs2.5 Lakh on 3rd April, 2014 and Rs.1 Lakh on 16th June, 2014 and so the protection needs to be given to the applicant. This submission is not only surprising but shocking submission. Serious cognizable offence is committed and the aforesaid circumstances show that there is a racket. In such cases, unless there is custodial

interrogation other similar offences cannot be detected. The circumstance that he has been working as Talathi is not in his favour and also the record like receipt obtained from the complainant. This circumstance can definitely be used against the applicant. His associates meed to be traced and arrested. Stolen property needs to be recovered. This Court hold that it is not a fit case to grant the relief.

10. The application is rejected.

[T. V. NALAWADE, J.]

Dt.25/02/2015
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